

Exhibit 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**IN RE: NATIONAL COLLEGIATE
ATHLETIC ASSOCIATION STUDENT-
ATHLETE CONCUSSION LITIGATION**

) MDL No. 2492
)
) Master Docket No. 1:13-cv-09116
)
) Judge John Z. Lee
)
) Magistrate Judge M. David Weisman

**DECLARATION OF CRYSTAL UTLEY
OF EPIQ MASS TORT**

I, Crystal Utley, declare as follows:

1. I am a Vice President of Garretson Resolution Group (d/b/a Epiq Mass Tort). On July 15, 2016, the Court appointed Epiq Mass Tort (“Epiq”) as the Program Administrator to “administer the Second Amended Settlement in accordance with the terms and conditions of this Order and the Second Amended Settlement Agreement.” (Dkt. 278, ¶ 13.) I make this declaration based upon my personal knowledge, and I am competent to testify as to its contents.

2. On April 8, 2020, Settlement Class Counsel submitted an unopposed motion requesting the Court grant leave to the Program Administrator to pay expenses related to its implementation of the Medical Monitoring Program (“the Program”) from the Medical Monitoring Fund (Dkt. 591). In that declaration, Epiq described its expenses incurred through the end of 2019 and characterized its estimates for 2020 expenses in comparison with its original estimates provided to Settlement Class Counsel and Counsel for the NCAA (collectively, “the Parties”) in 2015. The purpose of this declaration is to update the Court regarding expenses incurred by Epiq in 2020 in its implementation of the Program, and where applicable, to request Court approval for expenses that have exceeded the original estimates.

3. I offer the following description of activities performed by Epiq since those activities covered in the April 2020 Declaration.

Software Configuration and Development

4. Software Configuration and Development work includes: (i) foundational work related to Settlement Class Member registration; (ii) the online Screening Questionnaire tool; (iii) Medical Evaluation scheduling systems; (iv) Settlement Class Member correspondence; (v) a provider web portal for scheduling, communication, and reporting; (vi) a provider invoice adjudication system; and (vii) reporting systems. In the April 2020 Declaration, Epiq projected an additional \$645,000 in expenses to complete this work, for a total of \$748,124, an amount in line with projections in the August 2018 Declaration, after adjusting for inflation. (Id.)

5. To date, Epiq has completed configuration and development of the Settlement Website, online Screening Questionnaire tool, Medical Evaluation scheduling systems, Settlement Class Member correspondence, and most of the provider web portal for scheduling, communication, and reporting. Through September 30, 2020, these efforts have resulted in expenses of \$655,838, or \$10,838 more than the estimate in the April 2020 Declaration. Because the scope of its software configuration and development activities are unchanged from earlier in the year, however, Epiq is not seeking Court approval for these additional expenses, or for the expenses associated with the remaining software configuration and development required to complete initial implementation of the Program. Expenses for this cost category therefore continue to be in line with the August 2018 and April 2020 Declarations.

Licensing for Psychological Assessments

6. In its 2015 report to the Court, the Medical Science Committee designated seven (7) psychological assessments as part of the Screening Questionnaire for use in determining eligibility of Settlement Class Members for in-person Medical Evaluations. Of those seven assessments, four – the Beck Depression Inventory II (BDI-II), the Brief Symptom Inventory 18 (BSI-18), the Behavior Rating Inventory for Executive Functioning – Adult Version (BRIEF-A), and the Structured Inventory of Malingered Symptomatology (SIMS) – were under copyright protection and thus required licensing from their owners for use in the Screening Questionnaire.

7. In initial discussions between Epiq and the owners of the tests (Pearson, owner of the BDI-II and BSI-18, and PAR, Inc., owner of the BRIEF-A and SIMS), both Pearson and PAR proposed that the Program buy tens of thousands of tests up front, at a cost to the Fund of several hundred thousand dollars. Over the course of these discussions, however, both eventually agreed to much more favorable terms. The first, Pearson, agreed to allow the Program to pay for the assessments as they are used, with the only required up-front cost being a \$6,880 licensing fee. The other, PAR, Inc., decreased its required up-front payment to 4,000 uses for each of its two tests, resulting in an up-front cost of \$48,000. Combined, the up-front costs were \$54,880.

8. Epiq paid both Pearson and PAR, Inc. their required licensing fees in July 2020, prior to making the Screening Questionnaire available to Settlement Class Members. Epiq requests Court approval to be reimbursed for these costs, totaling \$54,880.

Construction of the Network of Program Locations

9. In its 2015 cost estimate, Epiq projected the expenses for efforts required to contract a network of Program Locations to deliver Medical Evaluations to Qualifying Class

Members. For this cost category, Epiq estimated total billings of \$455,483 for tasks that included defining and drafting Program operating procedures; defining and drafting participant and provider materials; enrolling providers; defining specifications for billing platforms; and internal training.

10. Of all the activities listed in the preceding paragraph, only one – provider enrollment – is a variable activity, the expenses for which are based on the number of prospective Program Locations engaged. Epiq created the estimate for this activity by multiplying the number of Program Locations required in the Settlement Agreement (33) by the required number of hours estimated by the various Epiq employees involved in enrolling each Program Location. The resulting calculations totaled \$143,963 for provider enrollment. Dividing this total by the number of required Program Locations (33) yields an estimated cost in the 2015 estimate of \$4,363 per Program Location in 2015 dollars.

11. This projection was accurate on a per-Program Location basis. It suffered, however, from two shortcomings. First, it did not account for the fact that it will ultimately be necessary in many cities to enroll more than one Program Location. Although the preferred approach in each city remains to enroll a single “one-stop” organization that can provide all required services – neurology and neuropsychology evaluations, imaging, and laboratory tests – in many cities, this approach has not been feasible, since such organizations have not demonstrated interest in participating in the Program. As a result, in certain cities, Epiq may be required to enroll up to four Program Locations (one each for neurology evaluations, neuropsychological evaluations, imaging, and laboratory tests) to deliver all required Program services.

12. The second limitation is that the cost estimate did not account for the fact that many prospective Program Locations will engage in the enrollment process with Epiq, only to drop out of the process at some point along the way. (Ultimately, the COVID-19 pandemic may contribute to the number of prospective Program Locations dropping from consideration, but we believe it more likely to delay contracting rather than to cause prospective Program Locations that otherwise would have participated to drop out of the process altogether.) Combining these two shortcomings, then, the 2015 cost estimate, although accurate in projecting the cost per enrolled Program Location, underestimated by several orders of magnitude the number of prospective Program Locations required to be engaged in the enrollment process in order to complete construction of the network of Program Locations in 33 cities.

13. In order, therefore, to calculate an accurate number of prospective Program Locations to be engaged, Epiq used two inputs – the actual number of prospective Program Locations engaged and the relative interest level demonstrated by each prospective Program Location, as assessed by the Epiq provider enrollment team. For the first input, Epiq limited the number of prospective Program Locations for each level of demonstrated interest to three per city, which had the effect of moderating the total number of prospective Program Locations per city to what Epiq believes is a reasonable level. Next, Epiq assigned a weighting to each demonstrated interest level to reflect the fact that a prospective Program Location that initially engages in the enrollment process but drops out before completing enrollment will, on average, require fewer hours of time devoted by the Epiq enrollment team. For the purposes of this calculation, Epiq assigned a full (100%) weighting to prospective Program Locations who had demonstrated a high level of interest, a 50% weighting to those who had demonstrated a moderate level of interest, and a 25% weighting to those who had demonstrated a low, none, or

unknown level of interest. Multiplying these weightings by the number of prospective Program Locations at each interest level (again, capped at a maximum of three per target city per interest level) resulted in the following weighted number of prospective Program Locations engaged:

Demonstrated Interest Level	Weighted Time Spent per Provider	Total Providers (limit of 3 per city)	Weighted Number of Prospective Program Locations
High	100%	94	94.0
Moderate	50%	52	26.0
Low/None/Unknown	25%	54	13.5
TOTAL		200	133.5

Table 1. Weighted Calculation of Number of Prospective Program Locations Engaged

14. Dividing the total weighted number of prospective Program Locations engaged (133.5) by the number of Program Locations assumed in the 2015 cost estimate (33) results in a multiple of 4.0 times the number of prospective Program Locations engaged versus the original 2015 estimate. Multiplying 4.0 by the variable provider enrollment portion of the 2015 estimate (\$143,963) results in a revised variable portion of the cost estimate of \$575,852, or a difference of \$431,889 from the original estimate in 2015 dollars.¹

15. The April 2020 Declaration described provider enrollment billings to date and calculated the remaining balance of the provider enrollment estimate at \$270,000 in 2020 dollars (that is, adjusted annually for inflation by 3.5% in 2017 through 2020, as authorized under the Epiq retention agreement with the Parties). Adjusting the \$431,889 increase in projected variable expenses (in 2015 dollars) for inflation yields an inflation-adjusted increase of \$495,600 in 2020 dollars, which when added to the earlier April 2020 estimate yields a revised remaining balance of \$765,600. Through December 2020, Epiq has incurred expenses in this category of

¹ Note that although the variable portion of the estimate is 300% higher than the original 2015 estimate, the fixed portion of the Provider Enrollment estimate remains unchanged. As a result, the \$431,889 increase, when added to the total (fixed and variable) estimate of \$455,483, totals \$887,372, which represents a 95% overall increase.

\$563,340, or \$293,340 higher than the remaining balance of the estimate described in the April 2020 Declaration.

16. Subtracting the \$563,340 in 2020 provider enrollment expenses from the revised total projected balance of \$765,600 leaves \$202,260 remaining for additional provider enrollment work. Epiq proposes to “roll over” this amount to 2021 to complete the initial setup of Program Locations, which is necessary primarily due to delays imposed by the COVID-19 pandemic. Although Epiq was able to continue its operations with limited disruptions during the pandemic, the same cannot be said of the provider organizations with which it interacted. During the early months of the pandemic especially, most provider organizations limited their activities to those directly related to COVID-19, delaying the ability of Epiq to finalize negotiations and contracting. Epiq does not believe that the pandemic will have a material impact on the overall cost of provider enrollment, but the pandemic will delay a portion of provider enrollment activities (and thus their related costs) into 2021.

Return-to-Play Guidelines Certification

17. In the April 2020 Declaration, Epiq included a cost estimate of \$20,600 to set up and administer a process to collect written certifications from NCAA member institutions that those institutions were in compliance with the Return-to-Play Guidelines set forth in Section IX.A of the Settlement Agreement. Estimated hourly fees constituted \$17,000 of the estimate, with the remaining \$3,600 comprising estimated pass-through expenses for the use of DocuSign to collect electronically signed certificates.

18. Beginning in February 2020 and continuing through May 2020, Epiq administered the process it established for NCAA member institutions, collecting and posting certifications from 996 member institutions. Total costs for this effort were \$23,116,

representing an increase of \$2,516 over the original estimate. This increase was driven primarily by three rounds of follow-up activities with unresponsive member institutions, an activity outside the scope of the original cost estimate, as well as modestly higher pass-through costs per signed certificate for DocuSign, the software application used to collect certification signatures.

19. Hourly fees for work performed on this task category were \$19,084 (\$2,084 more than the original estimate), and pass-through DocuSign expenses were \$4,032 (\$432 more than the original estimate), for a total cost of \$23,116, or \$2,516 more than the original estimate. Because the Court has already approved \$20,600 for these costs, Epiq respectfully requests approval for the increased costs of \$2,516.

Summary

20. In summary, Epiq requests approval for \$552,996 in fees and expenses above those outlined in its April 2020 Declaration. This amount includes \$495,600 in additional hourly fees associated with establishment of the network of Program Locations, \$2,084 in additional hourly fees for administering certification of compliance with the Return-to-Play Guidelines, pass-through expenses of \$54,880 for licensing fees for psychological assessments required by the Medical Science Committee in the implementation of the Screening Questionnaire, and \$432 in additional pass-through expenses associated with administering certification of compliance with the Return-to-Play Guidelines.

21. Combined with hourly fees of \$1,483,947 previously approved by the Court, hourly fees requested in this Declaration of \$497,684 (\$495,600 for establishment of network of Program Locations and \$2,084 for administering certification of compliance with the Return-to-Play Guidelines) would result in total approved hourly fees for Program Setup of \$1,981,631.

22. Combined with pass-through expenses of \$35,271 previously approved by the Court, pass-through expenses requested in this Declaration of \$55,312 (\$54,880 in pass-through expenses for licensing fees for psychological assessments required by the Medical Science Committee in the implementation of the Screening Questionnaire, and \$432 in additional pass-through expenses associated with administering certification of compliance with the Return-to-Play Guidelines) would result in total approved pass-through expenses for Program Setup of \$90,583.

I declare under penalty of perjury under the laws of the State of North Carolina that the foregoing is true and correct.

EXECUTED on this second day of February 2021, at Charlotte, North Carolina.

Crystal Utley

Crystal Utley
Vice President
Epiq Mass Tort
9144 Arrowpoint Blvd., 4th Floor
Charlotte, NC 28173



Pearson

PROFORMA INVOICE

Customer Bill-to:

EPIQ
6281 TRI RIDGE BLVD STE 300
LOVELAND OH, 45140-8345

Attention:**Customer Ship-to:**

EPIQ
6281 TRI RIDGE BLVD STE 300
LOVELAND OH, 45140-8345

Attention:**NCS Pearson, Inc.**

P.O Box 599700,
San Antonio, TX 78259
Tel: 800-627-7271

Proforma Number :**Date :** 28-MAY-2020**Customer Account# :****Sales Order Number :** 81381**Customer PO# :****Currency :** USD**Shipment Terms :** Paid**Customer Tax Number :****Number of Pages :** Page 1 of 2

PRICES HELD FOR 45 DAYS. RETAIN PF IN THE EVENT OF A PRICE INCREASE. CANNOT GUARANTEE STOCK AVAILABILITY AND SHIPPING CHARGES ARE ONLY AN ESTIMATE

Total Ordered Quantity (No. Of Items) :			REMITTANCE INFORMATION	
			Make Checks Payable to:	Bank Wire to:
Other Charges :	USD	\$0.00	13036 COLLECTION CENTER DRIVE CHICAGO 60693	Bank of America N A 071000039 A/C No: 8188105388 ABA : 071000039
Net Amount :	USD	\$6,880.00		
Tax Total :	USD	\$0.00		
Invoice Total :	USD	\$6,880.00		
Amount Due :	USD	\$6,880.00		



Proforma Number: [REDACTED]						Page 2 of 2
Item Number	Item Description	Quantity	Unit Price	Discount	Tax	Line Total
0150295235	GEN LICENSE-CLINICAL PERM FEE	1	6880.00	*	0.00	\$6,880.00

*** IMPORTANT CUSTOMER MESSAGES ***

INVOICE TOTALS	Subtotal	Total Other Charges	Total Tax	Total Due
	USD	USD	USD	USD
	\$6,880.00	\$0.00	\$0.00	\$6,880.00

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FED ID#: 59-1913294

Bill To: [REDACTED]
EPIQ
9144 ARROWPOINT BLVD
4TH FLOOR
CHARLOTTE, NC 28173

Ship To: [REDACTED] S01
GARRETSON RESOLUTION GROUP INC
D/B/A EPIQ MASS TORT
6281 TRI-RIDGE BLVD, SUITE 300
LOVELAND, OH 45140

Funds Expressed in US Dollars

SHIP VIA:

SHIPPED ALREADY

Item #	Description	Qty	List Price	Unit Price	Extended Price
8936-ZZ	LICENSING FEES BRIEF-A: ADMINISTRATION OF THE BRIEF-A VIA YOUR SECURE WEB PORTAL INTERFACE IN CONNECTION WITH A NATIONWIDE CLASS ACTION SETTLEMENT TO DETERMINE WHICH PARTICIPANTS QUALIFY FOR ADDITIONAL IN- PERSON EVALUATION	4000	\$7.00	\$7.00	\$28,000.00
8936-ZZ	LICENSING FEES SIMS: ADMINISTRATION OF THE SIMS VIA YOUR SECURE WEB PORTAL INTERFACE IN CONNECTION WITH A NATIONWIDE CLASS ACTION SETTLEMENT TO DETERMINE WHICH PARTICIPANTS QUALIFY FOR AN ADDITIONAL IN-PERSON EVALUATION	4000	\$5.00	\$5.00	\$20,000.00

Sales Rep: VICKI MCFADDEN

Subtotal:	\$48,000.00
Tax:	\$0.00
Total:	\$48,000.00

Special Instructions

LICENSE AGREEMENT FOR GARRETSON RESOLUTION GROUP,
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Important Information

PAR certifies this Quote is an official statement of costs in US Funds on the date specified above.

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Payment in US Funds by Credit Card, check money order, or wire transfer is necessary prior to shipment.

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